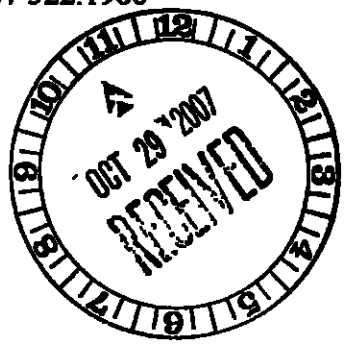
Thomas Gast
1275 Hightower Road
Wheatland WY 82201
307 322.1986



October 26, 2007

220558

VIA UPS OVERNIGHT
Mr. Vernon Williams, Secretary
Surface Transportation Board
395 E Street S W., Room 1149
Washington D.C 20024

Re. Docket No AB-33 (Sub-No. 209), UNION PACIFIC RAILROAD COMPANY DISCONTINUANCE OF OPERATION IN UTAH COUNTY, UTAH (ELBERTA LINE INCLUDING TINTIC INDUSTRIAL LEAD, GOSHEN VALLEY BRANCH AND IRON KING BRANCH)

Dear Mr. Williams,

Pursuant to 49 CFR 1152.25, enclosed is the original and ten (10) copies of Chief Consolidated Mining Company's Protest to the above application. The Protest and attached appendix represent Chief's case in chief.

One copy has been sent under separate cover to UP's representative·

Mack H Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive, Room 1920
Chicago IL 60606

Please file the Protest on Docket No. AB-33 (Sub-No. 209)

Sincerely,

Thomas E Gast

Thomas E. Gast

Enclosures

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 209)

UNION PACIFIC RAILROAD COMPANY
DISCONTINUANCE OF OPERATION
IN UTAH COUNTY, UTAH
(ELBERTA LINE INCLUDING TINTIC INDUSTRIAL LEAD,
GOSHEN VALLEY BRANCH AND IRON KING BRANCH)

PROTEST

CHIEF CONSOLIDATED MINING COMPANY
15988 Silver Pass Road
Eureka Utah 84628
435 433.6606

Dated: October 26, 2007
Filed: October 29, 2007

Introduction:

Chief Consolidated Mining Company ("Chief") submits this Protest to Union Pacific Railroad Company's ("UP") Application for authority to discontinue service of the Elberta Line consisting of four end to end line segments totaling 27.57 miles in Utah County Utah. Chief is the principal landowner in the Tintic and East Tintic mining districts. Its Burgin mine is located at the end of the Goshen Valley Branch As fully described in Appendix A, Sworn Statement of Thomas E. Gast, Chief expects to begin shipping lead/zinc concentrates in the second half of 2008. Additionally Chief is developing a potable water supply treatment plant and expects to place it in production during 2010.

UP's Application states that "the rail line under current traffic volumes cannot be operated profitably and there is no expectation of future business that would change this determination". Chief disagrees and believes the traffic forecasts contained herein supports our contention. Chief also states for the record that UP never contacted them to request any future rail prospects regarding this Application. The Application does not show evidence of UP ever contacting any other potential shippers or receivers when gathering data for their forecast economic models. It should also be noted that since 2003, local realtors and economic development personnel would never show a new business requiring rail service property adjacent to the Elberta Line because the Line was scheduled for abandonment by UP.

The Application shows that UP effectively discontinued service in early 2003 when it stopped serving Deseret Mill & Elevators. Of course there have been no rail shipments in the past two years In 2007, UP sold a major segment of the Line to the Utah Transit Authority and the crossings of US Highway 6 have been paved over. No maintenance has been performed and of course the line has degraded and it is in disrepair. All of these actions by UP were taken in anticipation of approval of the Application.

The balance of this Protest contains the information required at 49 CFR 1152 25 · This Protest represents Chief's Case in Chief.

1) Protestant's name, address and business

Chief Consolidated Mining Company
15988 Silver Pass Road
PO Box 51
Eureka, Utah 84628

Chief Consolidated Mining Company ("Chief") was organized as a corporation under the laws of Arizona in 1909. Our mining and executive office is located in Eureka, Juab County, Utah. We own or control approximately 16,000 acres of patented mining land in our own name and through our subsidiaries. We own interests in mining properties,

including the Burgin Mine and the Trixie Mine. Neither mine is currently in production but these are subject to ongoing development efforts.

2) A statement describing protestant's interest in the proceeding including:

i) a description of protestant's use of the Line;

In 2005, Chief commissioned a study on the further development and exploitation of our mining claims in the Tintic and East Tintic Mining Districts. The engineers who completed the study concluded that significant opportunities may exist and recommended a program of development to enhance the prospects of viably operating several projects including advancing the Burgin extension deposit through to a feasibility study and further development of the concept to sell potable water from a desalination plant fed by pumped water from the Burgin Mine.

The Tintic Complex includes the Burgin and Trixie mines, one 800 ton-per-day concentrator, surface shops, warehouses and offices that were constructed and operated historically by Kennecott Mining Company located in the East Tintic Mining District, Utah County, Utah. The Burgin complex is located at the end of the Goshen Valley Branch and the beginning of the Iron King branch as shown Appendix A of the Discontinuance Application.

Until mining operations were suspended in 1978 due to the combination of water disposal issues and low metal prices, mine production included both direct-ship ore and concentrate with all lead/silver/zinc ore being direct rail shipped to smelters outside the district. Rail facilities at Burgin include a number of sidings, leads and a track scale. For the period from 1967 through 1978, approximately 1,000 outbound carloads of ore and concentrate were shipped annually.

Chief is very close to resolving its water disposal issues. Chief learned that there is a considerable water deficit projected for the Provo – Springdale area and that an assured supply of potable water is very valuable. The Burgin mine is considered an assured reliable water source. Chief has completed a water treatment plant ("WTP") feasibility study considering the Burgin source as a stand alone project providing 30,000 acre feet of potable water annually. The current schedule includes operation of the pilot plant in early 2008, final design during the second half of 2008, construction and commissioning of the water treatment plant during 2009 with full scale water delivery beginning in early 2010. The plant has a design life in excess of 20 years.

The feasibility study contemplates a conventional WTP utilizing chemical pretreatment conditioning followed by reverse osmosis to desalinate the Burgin water. The study anticipates rail delivery of pretreatment chemicals At design capacity, required annual pretreatment chemicals include 15,000 tons of lime (150 car loads); 15,000 tons of soda ash (150 car loads); 200,000 gallons of 60% ferric sulfate (eight 25,000 gallon tanker loads); and 412,000 gallons of ferric chloride (seventeen 25,000 tanker car loads).

It is stressed that these 325 inbound carloads should be considered reasonably foreseeable because of the known water deficit in the greater Provo area; the proven reliability of the Burgin water source; and the positive economics of a stand alone potable water supply project. As the potable water will be supplied to the general public in the Provo – Springdale area and given the potable water deficiency of the area, operation of the Burgin potable water project could be considered in the general public interest.

Mining of the known Burgin ore body has been suspended for the past 30 years due to the combination of water disposal issues and low metal prices Resolution of the water disposal issues are addressed above. Metal markets have resolved the metal price issues with metal prices essentially tripling since 2002.

Because the Burgin ore body cannot be mined without dewatering, Chief has determined that mining will begin with other known ore bodies located above the water table. The mill was rebuilt in 2001 and it can be readied for production in short order. Necessary permits are in place Current plans include beginning mining in the second half of 2008, increasing production in 2009 and achieving rated capacity in 2010 following commissioning of the WTP and dewatering the Burgin ore body Outbound annualized rail traffic is projected at a rate of 237 cars of lead/zinc concentrate in the second half of 2008 rising to 474 car loads in 2009. When production from the main Burgin ore body begins in 2010, concentrate production will reach 288 tons per day (20 cars per week or over 1,000 cars per year). There are sufficient drill indicated reserves to sustain this shipping rate for over ten years

In summary, projected rail traffic includes 120 outbound concentrate car loads in 2008, 474 outbound concentrate car loads in 2009, and 1040 outbound concentrate car loads and 325 inbound water treatment plant chemical car loads in 2010 and beyond.

ii) if protestant does not use the Line, information concerning the group or public interest it represents;

Not applicable

iii) if protestant's interest is limited to retention of service over a portion of the Line, a description of the portion of the Line subject to protestant's interest (with milepost designations if available) and evidence showing the UP can operate the portion of the Line profitably, including appropriate return on its investment for those operations.

The Burgin complex is located at the end of the Goshen Valley Branch and the beginning of the Iron King branch as shown Appendix A of the Discontinuance Application. Protestant requests that service be maintained over the Elberta Line from Spanish Fork to the Burgin mine This is believed to include the Tintic Industrial Lead

from milepost 5.52 near Spanish Fork to milepost 27.23 near Pearl and the Goshen Valley Branch from milepost 0.00 near Pearl to milepost 3.80 near Flora. Protestant does not oppose discontinuance of service on the Iron King Branch.

Protestant does not have the knowledge to adequately calculate UP's return on investment However, the following is offered in support of Chief's belief that rail service can be profitably provided by UP

Projected rail traffic includes 120 outbound concentrate car loads in 2008; 474 outbound concentrate car loads in 2009, and 1040 outbound concentrate car loads and 325 inbound water treatment plant chemical car loads in 2010 and beyond. In 2010 this represents more than 4 times the rail traffic modeled in the Application for Discontinuance. It is believed that traffic level can be supported by the twice weekly service modeled by UP for modest incremental cost when compared with the model This is because service to the Burgin is only 3.8 miles beyond the Deseret Grain facility modeled. Therefore labor and locomotive expenses should represent only modest increases from the base. The life of the water treatment plant is more than the 20 years and that will serve to extend the amortization period for necessary track rehabilitation. The life of the Burgin mine is projected to extend beyond 10 years based on known ore resources. Future metal prices could expand or contract this period.

In summary, it is believed by the Protestant that the substantial increase in forecast rail traffic will allow UP to profitably operate the Elberta Line and contribute to the public welfare by providing cost savings to the operation of the Water Treatment plant while reducing truck traffic in the region thereby reducing energy consumption and emissions.

3) Specific reasons why protestant opposes the Application including information regarding protestant's reliance on the involved service (this information must be supported by affidavits of persons with personal knowledge of the facts)

The Elberta Line has served the Tintic District mines for over one hundred years With the closure of the lead and zinc smelters in the greater Salt Lake valley, it has become necessary to ship metal containing concentrates great distances to remaining processing facilities. This transport is best accomplished by rail as provided under common carrier responsibilities. Similarly the required quantities of water treatment chemicals are also best received by rail. When compared to rail shipment, truck shipments will result in significantly higher traffic congestion, energy consumption, emission discharges and transportation costs.

Detailed information regarding protestant's reliance on rail service via the Elberta Line is contained in Appendix A, the Verified Statement of Thomas E. Gast. Mr. Gast has worked with Chief since 1982 and he currently has responsibility for Chief's regulatory compliance and business development activities.

4) Any rebuttal of material submitted by Applicant.

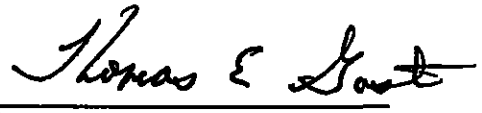
Maintenance and Rebuild: The Application contains no information regarding the maintenance history of the Elberta Line. Specifically did deferred maintenance of the Line during its active service period (previous to 2003) result in it needing to be completely rebuilt? If so, then this fact should be taken into effect when calculating the necessary return on investment dollar amounts. Also, there is no discussion regarding any possible alternatives to the complete rebuild set forth in the application. The question is is there a more cost effective construction program available to restore service to the Elberta Line.

Economic Model. When comparing the base year to the forecast year, the base year requires 10 trips (100 hours locomotive time and $8000 labor) to move 172 car loads while the forecast year requires 104 trips (520 hours of locomotive time and $41,600 labor) to move 348 car loads. There is no discussion in the Application supporting the decision to model twice per week service which results in five times the cost to move twice the freight. Does Deseret Mill require twice weekly service to support its expanded business? Even at this level of service, operation of the Elberta Line is modestly profitable and those operating profits would expand with lesser service

Combined Historic and Environmental Report Chief believes that this report is in error when it concludes that there will be no traffic, energy consumption or emission impacts resulting from approval of the discontinuance of service over the Elberta Line. In fact there were direct impacts to traffic, energy consumption and emissions when UP stopped servicing Deseret Mills in 2003 that continue to this day Approval of the Application will allow those impacts to continue into the future. There are additional reasonably foreseeable impacts to these same resources when considering the possible additional freight which will be diverted with Application approval

Dated this 26th day of October, 2007

Chief Consolidated Mining Company



Thomas E Gast
15988 Silver Pass Road
Eureka, Utah 84628
307 322.1986

Appendix A

Verified Statement

Of

Thomas E. Gast

My name is Thomas E Gast. I am an independent consultant employed by Chief Consolidated Mining Company ("Chief") in the areas of regulatory compliance and business development. My office address is 1275 Hightower Road, Wheatland WY 82201 I earned a Bachelor of Science Degree majoring in accounting and finance from Northern Illinois University. I have been an independent consultant since 1979. I have conducted various assignments on the Burgin mine property, owned by Chief, from 1982 through 1984, from 1994 through 2002 and from 2006 to the present

The Union Pacific Railroad Company filed an Application for Discontinuance of operation for the Elberta Line ("Line") including the Tintic Industrial Lead, Goshen Valley Branch and Iron King Branch a total distance of 27.57 miles in Utah County Utah. The Line is the sole rail service serving Chief's Burgin Mine. Chief requested that I prepare this statement documenting likely (reasonably foreseeable) rail traffic projections based on current project planning

Mining and Rail Shipment History.

The Tintic Complex includes the Burgin and Trixie mines, one 800 ton-per-day (tpd) concentrator, surface shops, warehouses and offices that were constructed and operated historically by Kennecott Mining Company located in the East Tintic Mining District, Utah County, Utah. The Burgin complex is located at the end of the Goshen Valley Branch and the beginning of the Iron King branch as shown Appendix A of the Discontinuance Application Work on the Burgin No. 1 shaft was begun in 1957. This shaft was ultimately sunk to a depth of 1,100 feet and from 1957 through completion of the Burgin No. 2 shaft in 1964, exploration, mine development and limited production operations were conducted through this shaft. Following completion of the No. 2 shaft to a depth of 1,331 feet, two production levels (1200 and 1300) were established. In 1972 the Burgin No. 1 shaft was deepened to the 1300 level The 800-tpd concentrator, including a crushing plant and tailings disposal facility, was completed in 1967.

Until Kennecott suspended operations in 1978 due to the combination of water disposal issues and low metal prices, production included both direct-ship ore and concentrate with all lead/silver/zinc ore being direct rail shipped to smelters outside the district. Rail facilities at Burgin include a number of sidings, leads and a track scale to weigh outbound rail shipments. For the period from 1967 through 1978, approximately 1,000 outbound carloads of ore and concentrate were shipped annually

Sunshine Mining Company leased Chief's producing properties from 1982 through 1992. Sunshine focused their efforts on proving the reserves of the deep Burgin ore body and producing gold/silver flux ore from the Trixie Mine. Sunshine's drill results indicated a Burgin resource of in excess of 1,000,000 tons of ore grading better than 20% combined lead and zinc and over 20 ounces of silver. However, Sunshine did not place the Burgin mine back in production due to the combination of water disposal issues and low metal prices During the eight year period from 1984 through 1992, approximately 12,000 tons of flux was annually rail shipped (10 car loads per month). The balance of flux produced was truck shipped to Salt Lake City smelters.

Chief has continued development of its properties from 1993 to the present. The active development was interrupted in 2001 by the Environmental Protection Agency naming chief as a Principal Responsible Party to the Superfund cleanup of Eureka Utah. When Chief resolved the outstanding remediation issues at the end of 2005 and negotiated a satisfactory settlement, planning work on reopening the Burgin mine resumed.

Current Project Status - Water Treatment Plant:

Chief is very close to resolving its water disposal issues. While investigating alternatives for water disposal, Chief learned that there is a considerable water deficit projected for the Provo – Springdale area and that an assured supply of potable water is very valuable. Since Kennecott dewatered the Burgin mine at a constant rate in excess of 8,000 gallons per minute for over eight years without any noticeable drawdown of the aquifer, the Burgin is considered an assured reliable water source. Chief has completed a water treatment plant ("WTP") feasibility study considering the Burgin source as a stand alone project providing 30,000 acre feet of potable water annually. The feasibility study is positive and Chief will construct and operate a pilot plant in the first half of 2008. The current schedule then contemplates final design during the second half of 2008, construction and commissioning during 2009 with full scale water delivery beginning in early 2010. The plant has a design life in excess of 20 years.

The feasibility study contemplates a conventional WTP utilizing chemical pretreatment conditioning followed by reverse osmosis to desalinate the Burgin water. The study anticipates rail delivery of pretreatment chemicals. At design capacity, required annual pretreatment chemicals include 15,000 tons of lime (150 car loads) likely shipped from Pilot Peak or Las Vegas Nevada or Soda Springs Idaho; 15,000 tons of soda ash (150 car loads) sourced from Green River Wyoming, 200,000 gallons of 60% ferric sulfate (eight 25,000 gallon tanker loads) supplied from either Texas or California; and, 412,000 gallons of ferric chloride (seventeen 25,000 tanker car loads) from Rowley Utah.

It is stressed that these 325 inbound carloads should be considered reasonably foreseeable because of the known water deficit in the greater Provo area; the proven reliability of the Burgin water source; and the positive economics of a stand alone potable water supply project. As the potable water will be supplied to the general public in the

Provo – Springdale area and given the potable water demands of the area, it is arguable that operation of the Burgin potable water project is in the public interest.

Current Project Status – Mining Project:

Mining of the known Burgin ore body has been suspended for the past 30 years due to the combination of water disposal issues and low metal prices Resolution of the water disposal issues are addressed above. Metal markets have resolved the metal price issues Metal prices have essentially tripled since 2002 (lead from $0.40 to $1 70 per pound, zinc from $0.45 to $1 40 per pound; and, silver from $5.50 to $13 50 per ounce) Overall this change in metal prices has had the effect on the plus million ton Burgin ore body of increasing per ton contained metal values from $240 to $810.

Because the Burgin ore body cannot be mined without dewatering, Chief has determined that mining will begin with other known ore bodies located above the water table The mill was rebuilt in 2001 and it can be readied for production in short order Necessary permits are in place. Current plans include beginning mining at a rate of 250 tons per day in the second half of 2008, increasing this to 500 tons per day in 2009 and achieving 800 tons per day in 2010 following commissioning of the WTP and dewatering the Burgin ore body. Because the ore bodies located above the water table are of lesser grade that the Burgin ore body, The 250 tons per day mined in 2008 will produce 65 tons of concentrate (455 tons per week or 23,660 tons annually). The concentrate is planned to be rail shipped directly to Trail British Columbia or in containers for export to a Pacific Rim custom smelter

Outbound annualized rail traffic is projected at a rate of 237 cars in the second half of 2008 rising to 474 car loads in 2009. When production from the main Burgin ore body begins in 2010, mill throughput will increase to 800 tons per day and concentrate production will reach 288 tons per day (20 cars per week or over 1,000 cars per year) There are sufficient drill indicated reserves to sustain this mining rate for over ten years.

Current Project Status – Projected Rail Traffic:

In summary, projected rail traffic includes 120 outbound concentrate car loads in 2008, 474 outbound concentrate car loads in 2009; and 1040 outbound concentrate car loads and 325 inbound water treatment plant chemical car loads in 2010 and beyond

STATE OF WYOMING

COUNTY OF PLATTE

Thomas E. Gast, being first duly sworn, deposes and states that he has read the above document, knows the facts asserted therein, and that the same are true as stated

Thomas E Gast

Thomas E. Gast

SUBSCRIBED and SWORN to before me this 25th day of October, 2007

Thomas C Bramlet

Notary Public

expires 3-20-2010

Thomas C Bramlet - NOTARY PUBLIC
County of Platte
State of Wyoming
My Commission Expires March 20, 2010